

**ORDINANCE NO. 20140828-041**

**AN ORDINANCE AMENDING SECTION 12-1-34 OF THE CITY CODE TO PROHIBIT THE USE OF PORTABLE ELECTRONIC DEVICES WHILE OPERATING A MOTOR VEHICLE OR BICYCLE, AND CREATING AN OFFENSE.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1.** Section 12-1-34 of the City Code is amended to read:

**§ 12-1-34 USE OF PORTABLE ELECTRONIC DEVICES WHILE OPERATING A MOTOR VEHICLE OR BICYCLE.**

(A) In this section:

- (1) portable electronic device means a hand-held mobile telephone, personal digital assistant, MP3 or other hand-held music player, electronic reading device, laptop computer, pager, broadband personal communication device, global positioning or navigation system, electronic game device, or portable computing device.
- (2) use means employing a portable electronic device for any reason including, without limitation, the following activities while holding or touching the device:
  - (a) dialing or deactivating a phone call;
  - (b) speaking in or listening to a conversation;
  - (c) viewing, taking, or transmitting electronic images;
  - (d) composing, sending, viewing, accessing, browsing, retrieving, or saving email messages, text messages, or other electronic data;

- (e) entering or changing information in a global positioning or navigation system or any software or application designed for navigation;
  - (f) accessing or viewing an internet website or computer application or;
  - (g) playing a game.
- (3) operating a bicycle means astride a permanent seat attached to the bicycle while the bicycle is in motion.
- (4) authorized emergency personnel means a person who is a law enforcement officer, firefighter, member of a governmental emergency medical services function, or member of a governmental emergency management function.
- (B) [(A)] An operator of a motor vehicle [~~driver of a motor vehicle~~] may not use a portable electronic device [~~wireless communication device to view, send, or compose an electronic message or engage other application software~~] while the vehicle is in motion.
- (C) A person may not use a portable electronic device while operating a bicycle.
- (D) [(B)] It is an affirmative defense to prosecution of an offense under this section if [~~a wireless communications device is used~~]:
- (1) the motor vehicle or bicycle is at a complete stop;
  - (2) the portable electronic device is used in a hands-free mode of operation and used to engage in telephone communication or to listen to audio transmissions;
  - (3) the portable electronic device is [as] a global positioning or navigation device, or global positioning or navigation software on a device, and the device is affixed to the motor vehicle or bicycle;

(4) use of a portable electronic device is for obtaining emergency assistance to report a crime, traffic accident, medical emergency, or serious traffic hazard, or to prevent a crime about to be committed; or

(5) use of a portable electronic device is in the reasonable belief that a person's life or safety is in immediate danger.

~~[(6) [if the device is permanently installed inside the vehicle; or]~~

~~[(7) [solely in a voice-activated or other hands-free mode.]]~~

(E) ~~[(C)]~~ This section does not apply to ~~[an operator of an]~~ authorized emergency personnel ~~[vehicle]~~ using a portable electronic ~~[wireless communication]~~ device while acting in an official capacity.

(F) This section does not apply to citizen's band radio devices, two-way radio communication in a commercial vehicle, or to persons engaged in Amateur Radio Emergency Service (ARES) activities or Radio Amateur Civil Emergency Service (RACES) activities.

(G) ~~[(D)]~~ To the extent that this section conflicts with the Texas Transportation Code Section 545.424, regarding the use of wireless communication devices while operating a motor vehicle by minors, or Texas Transportation Code Section 545.425, regarding the use of wireless communication devices in school crossing zones, this section does not apply.

**PART 2.** This ordinance shall take effect January 1, 2015.

**PASSED AND APPROVED**

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August 28, 2014

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Lee Leffingwell  
Mayor

**APPROVED:** \_\_\_\_\_  
Karen M. Kennard  
City Attorney

**ATTEST:** \_\_\_\_\_  
Jannette S. Goodall  
City Clerk